

USDC SDNY
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ELECTRONICALLY FILED
DOC #:
DATE FILED: 1/10/2025

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ICON INTERNATIONAL, INC.,

Plaintiff,

-against-

ELEVATION HEALTH LLC,

Defendant.

ELEVATION HEALTH LLC,

Defendant/Counterclaim-
Plaintiff,

-against-

ICON INTERNATIONAL, INC.,

Plaintiff/Counterclaim-
Defendant.

ELEVATION HEALTH LLC,

Defendant/Third Party Plaintiff,

-against-

GYPSET, INC., DAYNA ZEGARELLI, JOE DAVIS,
CLARENCE V. LEE III, and KHALID ITUM,

Third Party Defendants.

1:22-cv-4304-MKV

MARY KAY VYSKOCIL, United States District Judge:

For clarification regarding the Court's recent direction to Counsel to file a revised Pretrial Order to include, among other revisions, revised witness lists, the Court was not inviting an enlargement of the witness lists. The parties are not granted leave to add any witnesses not previously designated in the Proposed Pretrial Order. [ECF No. 154]. Instead, the revised Pretrial

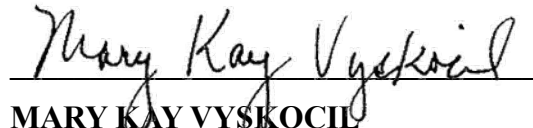
Order should simply make clear which witnesses each party intends to call for its case in chief and which witnesses it intends to call on rebuttal, if any.

Again, the revised Pretrial Order is not an opportunity for the parties to enlarge the scope or the length of trial beyond that which was discussed at the Pretrial Conference. Further, the direction to file a revised Pretrial Order Icon is not an invitation for Mr. Itum to be added as a witness during his own case in chief, having failed to timely designate himself as a witness. The Court will rule separately on the requests by Itum and by Elevation Heath to move in limine.

The parties are reminded that failure to comply with this Order or with any order of the Court or failure to comply with the FRCP, the Local Rules for the SDNY or this Court's Individual Practice Rules, or the parties' discovery or other obligations thereunder may result in sanctions, including monetary penalties on counsel and/or the parties, dismissal or preclusion of claims, defenses, arguments, or evidence.

SO ORDERED.

**Date: January 10, 2025
New York, NY**


MARY KAY VYSKOCIL
United States District Judge